



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Airports Rent-A-Car

File: B-223660

Date: October 15, 1986

DIGEST

1. Protest that agency improperly failed to send protester a solicitation is timely when filed within 10 working days of bid opening date as published in the Commerce Business Daily.
2. Contracting agency's failure to provide protester with a copy of the solicitation does not provide a compelling reason for cancellation and resolicitation where there was a significant effort to obtain competition, reasonable prices were obtained and there was no deliberate or conscious attempt to preclude the protester from competing.

DECISION

Airports Rent-A-Car (Airports) protests any award under invitation for bids (IFB) No. FCAPM-V9-70384-S, issued by the General Services Administration (GSA) for the leasing of automobiles and light trucks.

We deny the protest.

The procurement was synopsisized in the Commerce Business Daily (CBD) on April 29, 1986. Potential bidders were advised that bid opening would occur on or about July 9 and that additional information on the procurement could be obtained by contacting GSA. As a result of the CBD announcement, Airports wrote the agency on May 5 to request a copy of the IFB. Subsequently, on June 19, Airports telephoned GSA to again request that it be sent a copy of the IFB. Airports states that it was told by agency personnel at that time that as soon as copies of the IFB were printed, Airports would be furnished one. Airports never received a copy of the solicitation and by letter dated July 11, received by our Office on July 17, Airports filed a protest with our Office requesting that the requirement be resolicited to permit it to submit a bid.

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Initially, we note that GSA argues that the protest should be dismissed as untimely based on our decision in G&L Oxygen and Medical Supply Services, B-220368, Jan. 23, 1986, 86-1 CPD ¶ 78. However, that decision concerned a protester's allegation that an agency should renew its current contract rather than conduct a competitive procurement. We held that the CBD announcement of the procurement advised the protester of its basis for protest since it put the protester on notice that the existing contract would not be renewed. Furthermore, the protest was filed approximately 1 month after the bid opening date set forth in the CBD announcement and the decision in that case is not inconsistent with our long established rule which permits the filing of a protest alleging nonreceipt of a solicitation within 10 working days of the July 9 bid opening date/closing date for receipt of proposals. Tobe Deutschmann Labs, Inc., B-221684, Jan. 28, 1986, 86-1 CPD ¶ 102; Aurora Spectrum Int'l., B-214162, Feb. 13, 1984, 84-1 CPD ¶ 185. Since Airports protest was filed within 10 working days of the July 9 bid opening date set forth in the CBD announcement, it will be considered on the merits.

GSA indicates that the IFB was issued on May 16 and that all potential bidders on the bidders' mailing list, including Airports, were mailed a copy. In addition, GSA states that it has no record of any subsequent telephone call from Airports requesting a copy of the IFB. GSA contends that it made a significant effort to obtain competition on this procurement, that eight bids were received and that reasonable prices were obtained. Under these circumstances, GSA argues that there is no basis for requiring the procurement to be resolicited.

The propriety of a procurement depends on whether adequate competition and reasonable prices were obtained--not whether a particular firm was given the opportunity to submit a bid. Washington Patrol Service, Inc., B-217488, Aug. 16, 1985, 85-2 CPD ¶ 178. Further, the agency's failure to solicit a potential bidder does not provide a compelling reason for resolicitation as long as there was a significant effort to obtain competition, reasonable prices were obtained, and there was no deliberate or conscious attempt to exclude the protester from competing. Western Pioneer, Inc., d.b.a. Delta Western, B-220608, Jan. 30, 1986, 86-1 CPD ¶ 109; Solon Automated Services, Inc., 63 Comp. Gen. 312 (1984), 84-1 CPD ¶ 473.

Here, we find that GSA obtained adequate competition and there is no evidence which suggests that the prices obtained

on the procurement were not reasonable. Although Airports contends that GSA sent copies of the IFB only to a few favored bidders, Airports has submitted no evidence to support its allegations. There has been no showing that Airport's failure to receive the IFB was due to a deliberate or conscious attempt to preclude the protester from competing on the procurement and, accordingly, we see no basis to require GSA to resolicit the requirement.

The protest is denied.

for Seymour Efron
Harry R. Van Cleve
General Counsel